

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 187

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO FREEDOM OF CONSCIENCE FOR HEALTH CARE PROFESSIONALS; AMENDING SECTION 18-611, IDAHO CODE, TO PROVIDE IN CASES WHERE A LIVING WILL OR PHYSICIAN'S ORDERS FOR SCOPE OF TREATMENT IS OPERATIVE, AS DEFINED BY THE MEDICAL CONSENT AND NATURAL DEATH ACT, AND A PHYSICIAN HAS AN OBJECTION OF CONSCIENCE TO THE TREATMENT DESIRED BY THE PATIENT, THE PHYSICIAN SHALL COMPLY WITH THE PROVISIONS OF SECTION 39-4513(2), IDAHO CODE, BEFORE WITHDRAWING CARE AND TREATMENT TO THE PATIENT AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-611, Idaho Code, be, and the same is hereby amended to read as follows:

18-611. FREEDOM OF CONSCIENCE FOR HEALTH CARE PROFESSIONALS. (1) As used in this section:

(a) "Abortifacient" means any drug that causes an abortion as defined in section 18-604, Idaho Code, emergency contraception or any drug the primary purpose of which is to cause the destruction of an embryo or fetus.

(b) "Conscience" means the religious, moral or ethical principles sincerely held by any person.

(c) "Embryo" means the developing human life from fertilization until the end of the eighth week of gestation.

(d) "Fetus" means the developing human life from the start of the ninth week of gestation until birth.

(e) "Health care professional" means any person licensed, certified or registered by the state of Idaho to deliver health care.

(f) "Health care service" means an abortion, dispensation of an abortifacient drug, human embryonic stem cell research, treatment regimens utilizing human embryonic stem cells, human embryo cloning or end of life treatment and care.

(g) "Provide" means to counsel, advise, perform, dispense, assist in or refer for any health care service.

(h) "Religious, moral or ethical principles," "sincerely held," "reasonably accommodate" and "undue hardship" shall be construed consistently with ~~T~~title VII of the federal civil rights act of 1964, as amended.

(2) No health care professional shall be required to provide any health care service that violates his or her conscience.

(3) Employers of health care professionals shall reasonably accommodate the conscience rights of their employees as provided in this section, upon advanced written notification by the employee. Such notice shall suffice without specification of the reason therefor. It shall be unlawful for

1 any employer to discriminate against any health care professional based upon
2 his or her declining to provide a health care service that violates his or
3 her conscience, unless the employer can demonstrate that such accommodation
4 poses an undue hardship.

5 (4) No health care professional or employer of the health care pro-
6 fessional shall be civilly, criminally or administratively liable for the
7 health care professional declining to provide health care services that
8 violate his or her conscience, except for life-threatening situations as
9 provided for in subsection (6) of this section.

10 (5) The provisions of this section do not allow a health care profes-
11 sional or employer of the health care professional to refuse to provide
12 health care services because of a patient's race, color, religion, sex, age,
13 disability or national origin.

14 (6) If a health care professional invokes a conscience right in a
15 life-threatening situation where no other health care professional capable
16 of treating the emergency is available, such health care professional shall
17 provide treatment and care until an alternate health care professional capa-
18 ble of treating the emergency is found.

19 (7) In cases where a living will or physician's orders for scope of
20 treatment (POST) is operative, as defined by the medical consent and natu-
21 ral death act, and a physician has a conscience objection to the treatment
22 desired by the patient, the physician shall comply with the provisions of
23 section 39-4513(2), Idaho Code, before withdrawing care and treatment to the
24 patient.

25 (8) Nothing in this section shall affect the rights of conscience pro-
26 vided for in section 18-612, Idaho Code, to the extent that those rights are
27 broader in scope than those provided for in this section.